



Additionally, K.S.A. 1999 Supp. 44-551(b)(1) states:

All final orders, awards, modifications of awards, or preliminary awards under K.S.A. 44-534a and amendments thereto made by an administrative law judge shall be subject to review by the board upon written request of any interested party within 10 days.

K.S.A. 1999 Supp. 44-551 does not differentiate between the species of award. Therefore, the Board will not differentiate between an award authored after litigation versus an agreed award entered by the Administrative Law Judge. The same 10-day appeal time would apply to each.

K.S.A. 44-512a (Furse 1993) provides as follows:

In the event any compensation, including medical compensation, which has been awarded under the workers compensation act, is not paid when due to the person, firm, or corporation entitled thereto, the employee shall be entitled to a civil penalty, to be set by the administrative law judge and assessed against the employer or insurance carrier liable for such compensation in an amount of not more than \$100 per week for each week any disability compensation is past due . . . .

A statutory demand under K.S.A. 44-512a (Furse 1993) can only be effective for compensation awarded claimant and then due and unpaid. Hallmark v. Dalton Construction Co., 206 Kan. 159, 476 P.2d 221 (1970).

When computing the 10-day appeal time, K.S.A. 1999 Supp. 44-551 excludes Saturdays, Sundays and holidays from the computation of the days. Therefore, with an effective date of October 16, the 10-day appeal time to the Board would conclude October 30, 2001. The 20-day period under K.S.A. 44-512a (Furse 1993) could not begin until that date has passed. Therefore, the payment by respondent on November 8, 2001, was within the 20 days permitted by statute.

Moreover, written demand served upon a respondent before the award becomes final, i.e., until the 10-day appeal time to the Board had passed, is ineffective to predicate an action for penalties under K.S.A. 44-512a (Furse 1993). See Hallmark, at Syl. 2.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Jon L. Frobish dated December 13, 2001, denying claimant penalties under K.S.A. 44-512a (Furse 1993), should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 2002.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c:     Roger A. Riedmiller, Attorney for Claimant  
       Kurt W. Ratzlaff, Attorney for Respondent  
       Jon L. Frobish, Administrative Law Judge  
       Philip S. Harness, Director